

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

JAMES H. HIGGASON, JR.,)	
)	
Petitioner,)	
)	
v.)	CAUSE NO.: 1:07-CV-156 TS
)	
ED BUSS,)	
)	
Respondent.)	

OPINION AND ORDER

James H. Higgason, Jr., a *pro se* prisoner, filed this habeas corpus petition challenging his 180 day loss of good time, and demotion to credit class III, for battery in violation of A-102 imposed by the Wabash Valley Disciplinary Hearing Board in case number WVS 99-03-0038 on April 8, 1999. Higgason previously filed a habeas corpus petition challenging this same conviction in *Higgason v. Hanks*, TH99-C-188 (S.D. Ind. filed July 22, 1999). The United States Court of Appeals for the Seventh Circuit affirmed the denial of the Writ on April 26, 2001, in *Higgason v. Lemmon*, 6 Fed. Appx. 433 (7th Cir. 2001) (No. 99-4289). The United States Supreme Court denied certiorari on December 3, 2001, in *Higgason v. Lemmon*, 534 U.S. 1052 (2001).

Regardless of whether the claims that Higgason is now attempting to present are new or whether they were presented in his previous petition, this petition must be dismissed. "A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." 28 U.S.C. § 2244(b)(1). Therefore any claims previously presented must be dismissed.

Additionally, for any claim not previously presented,

Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

28 U.S.C. § 2244(b)(3). Here, Higgason has not obtained an order from the court of appeals permitting him to proceed with any previously unrepresented claims. “A district court *must* dismiss a second or successive petition . . . unless the court of appeals has given approval for its filing.” *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996) (emphasis in original). Therefore any previously unrepresented claims must also be dismissed.

For the foregoing reasons, the habeas corpus petition is **DISMISSED** for want of jurisdiction and the *in forma pauperis* petition [DE 2] is **DENIED**.

SO ORDERED on August 6, 2007.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT